

REMARKS/ARGUMENTS

Claims 1-13 and 17-18 were pending in this application. Claims 1-3, 5, 7, 9-13 and 17-18 have been amended. New claims 19 and 20 have been added in moving some subject matter from the independent claims 1 and 10 to the added dependent claims. Certain typographical or clerical errors have been corrected. No new matter is added.

In the Office Action, claims 1-13 and 17-18 were rejected under 35 U.S.C. §112, first paragraph as allegedly failing to comply with the written description requirement. Claims 1-13 and 17-18 were rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite on various grounds. The lack of indicated drawings were objected to. These matters are addressed below.

Interview Summary

Applicant's representative thanks the Examiner for the courtesy of a telephonic interview conducted Feb. 1, 2006. During that interview, the parties discussed the fact that the claims are directed towards the dye structure D1, conjugated forms thereof, and methods of use of the dye and/or conjugates. The parties discussed that the particular FETL's (FETL 1-4) disclosed in the application are not a critical element of the independent claims presented here, although Applicant reserves the right to pursue such claims in a subsequent application. In light of this discussion, the Examiner was satisfied with the definition of "FETL" as amended in the previous response. The Examiner requested that Applicant amend the claims to change the term "comprising" from the FETL definition in claims 1 and 10 to "is" in response to the indefiniteness rejection at page 3, third paragraph of the Office Action; Applicant has made a corresponding amendment above. The parties discussed the Examiner's request to define L1 and L2 as chemical bonds at page 2, last paragraph of the Office Action; Applicant has made a corresponding amendment above. The parties agreed to amend the dye claims 1 and 10 to move the language regarding conjugates to separate dependent claims; corresponding amendments have been made, and new dependent claims 19 and 20 to the conjugates have been added. The parties discussed that no drawings were filed with the application, and that the indication in the PTO file system indicating four drawings were filed is in error. The Examiner suggested filing a separate correction preceding this submission to correct the drawing designation; Applicant has done so.

The Written Description Rejections of Claims 1-7 and 10-18 under 35 USC 112

Claims 1-7 and 10-18 were rejected under 35 U.S.C. §112, first paragraph as allegedly lacking written description. The description of FETL, L1 and L2 were objected to. As discussed

above and agreed during the telephonic interview, the particular structure of the FETL is not a critical feature of the broadest scope of the invention; rather, the invention relates to the structure D1, energy transfer dyes comprising it, and conjugates comprising D1.

The recitations of L1 and L2 have been amended as requested.

Withdrawal of the rejections under 35 USC 112, first paragraph, is therefore respectfully requested.

The Indefiniteness rejections

Claims 1-13 and 17-18 were rejected under 35 U.S.C. §112, second paragraph as allegedly indefinite on various grounds. This rejection is traversed or otherwise addressed below.

The indefiniteness rejection on the basis of the definition of FETL, L1 and L2 is addressed above.

The term "comprising" in claim 1, line 6 and claim 10, line 37 was alleged to render those claims indefinite; "is" was suggested as an acceptable substitution. Claims 1 and 10 have been amended accordingly.

The term "into" at claim 13, line 9 was said to render the claim indefinite. Claim 13 has been amended to more clearly recite the relevant method step.

Withdrawal of these grounds of rejection is respectfully requested.

Objection to the lack of drawings

As explained during the telephonic interview, no drawings were filed with the application. The filing receipt does indicate four drawings were filed; this is believed to be a clerical error. As requested, Applicant has recently submitted a Request for Correction of Bibliographic Information and a Supplemental Application Data Sheet indicating that no drawings were filed with the application. It is believed these actions will correct the bibliographic information to reflect that no drawings are present in this application. Withdrawal of this objection is requested.

CONCLUSION

It is respectfully asserted that the application is believed to be in condition for allowance, and early notice to that effect is requested. Should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Please charge any additional fees, or credit overpayment to Deposit Account No. 06-1135, matter 8143-81923.

Respectfully submitted,

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